

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated June 30, 2004. A Petition for Extension of Time (three months) and the fee therefor are enclosed.

Claims 1, 2-4, 12-14, 17-19, 25-26, 28, 31-32, 34, 36, 37 and 39-41 are stated to be anticipated by Wachob (5,155,591), as explained in paragraph 3 of the Office Action. Claims 5, 6-10 and 21-24 are stated to be obvious over Wachob, in view of Garg, et. al. (6,571,216). Claims 15, 16, 20, 27, 29-30, 33, 35 38, 40 and 42 are stated to be obvious over Wachob, in further view of Herz, et. al. (6,088,722), as set forth in paragraph 7 of the Office Action. Finally, Claim 11 is said to be obvious over Wachob, in view of Scroggie (6,014,634), as explained at paragraph 8 of the Office Action. Reconsideration is requested in view of the amendments to the claims herein and the following remarks.

As the title of the application suggests, the present application and claims 1 through 38 are very deeply intertwined with the concept of “incentives for promoting the exchange of personal information”. Individuals do not like to, and often resist, providing personal information. At the same time, public broadcasters would like to, and have always, exerted some measure of targeting advertising to different segments of the population based on demographic considerations. The primary reference, Wachob, is but one example of the variety of systems which comprise “method and apparatus for providing demographically targeted television commercials”. There is no disclosure in this primary reference of any intent to provide or control the dissemination of targeted television commercials based on any “reward” criteria or mechanism.

Independent claim 1 of the instant specification, as amended, is directed to a public broadcasting system, which does not merely concern itself with creating data files which store information about viewer demographics.

Rather, the invention of claim 1, as amended, includes a facility that sets rewards to viewers who provide viewer profile information, based on certain criteria. That criteria is designed to increase the level of rewards based on both the quality and quantity of information provided by the viewer. In this manner, targeting of advertising can be very much improved.

Further in accordance with claim 1, the content selector that provides program content to viewers and the advertising inserter which selects and supplies advertising content, is further controlled by the “rewards” set by the reward setting facility. As specifically recited in claim 1, the rewards include setting the durations of advertising content in some relationship to the rewards that have been set. This might be reducing the durations of the advertising substantially, which would result in less annoyance to viewers.

Wachob does not contain any such system. It sets no “rewards” and it cannot alter the duration of an advertisement to suit a level of rewards which have been set for a particular viewer or a group of them. Indeed, the Office Action recognizes that Wachob does not disclose a system as defined in Claim 1 (as presently amended). Wachob replaces commercials with different commercials or with music or other types of information of identical duration. It does not control duration and does not provide any reward in exchange for a viewer’s cooperation in providing profile information.

The Office Action has therefore turned to the secondary Garg reference, which generically describes a system for providing rewards, *per se*, to individuals based on their personal profiles. Thus, a central agency provides the reward in exchange for users accessing the central agency via the Internet, telephone, or the like. The rewards are invariably cash or its equivalent, such as discounts on products and services, loyalty points, electronically distributed prizes, free samples, product warranties, tie-in promotions, cross-selling, premiums, memberships, car discounts, organizing contests, sweepstakes, games, etc. There is no disclosure in this secondary reference of tie-in with television advertising or intertwining a reward with the durations of television or broadcast commercials.

Perhaps recognizing that Garg does not disclose the system of the present invention which is structurally configured to provide the ability to reduce advertising duration and increase program content duration, the Office Action generically states (at the second paragraph on page 6 thereof), that: “...describing what the rewards are comprised of, are non-functional data and therefore do not distinguish the claimed invention.” Applicant respectfully, but emphatically, disagrees. In the context of the present invention, the facility that sets the rewards is structurally and functionally intertwined with the program content selector and the advertising inserter and

controls it structurally and functionally, to alter a physical parameters. The structure and the function of the present invention, as set forth in claim 1, is simply not described nor suggested in the prior art. The prior art of record would not lead one of ordinary skill in the art to the invention of claim 1, except if one were to employ (improperly) hindsight to seize on disparate pieces of prior art information and to employ the information provided by the present application to arrive at what is set forth and clearly defined in claim 1 herein.

The remaining ones of the claims which depend on claim 1 include all of its limitations and impose further limitations thereon which distances each of them even further from the prior art. As such, it is respectfully submitted that claim 1 and its dependent claims clearly distinguish over the prior art.

Independent claim 39 is directed to a public, over the air, broadcasting system which involves broadcasting live program content and advertising content as well. The invention as defined in claim 39 includes an advertising player which is coupled with, and located at, a corresponding one of the receiving devices, or, in other words, at the viewer's home or the like. The advertising player includes a facility that receives and pre-stores the advertising content.

Further, an advertising content inserter is both responsive to view profile information and operates with the advertising player and the corresponding receiver of the viewer to dynamically and interactively insert portions of the pre-stored advertising content into the live program content being provided to the given viewer via the public, over the air, broadcasting system. In this manner, advertising that has been pre-stored and live program content are presented in integrated form to a viewer based on the viewer profile information [that is associated with a given viewer].

The Wachob reference is not even remotely similar to or suggestive of the invention of independent claim 39. The Wachob system cannot operate with over the air public broadcasting systems, given that the limited bandwidth spectrums assigned to public television entities such as ABC, NBC, CBS, FOX and the like. No bandwidth is allocated for live, over the air, broadcasts of replacement or substitute commercials.

As a result, the invention of claim 39 uses different means of communications with the advertising players to prestore commercial content therein, recognizing that the commercial

content for a particular viewer could not be broadcast live. They could not be transmitted "live" and still be available in perhaps hundreds of variations to suit the large number of different viewer profiles that must be addressed.

The invention of independent claim 39 provides a truly revolutionary concept that would allow such familiar television broadcasters as ABC, NBC, CBS, etc., to prestore advertisement copy in people's homes based on users' profile information and substitute those commercials for commercials that they broadcast live over the air through the normal signal spectrum bandwidths allocated to the various ones of the public television broadcasting systems.

Although not specified in claim 39, the instant specification makes it clear that the advertising copy that is prestored in people's homes can be transmitted either via telephone or low bandwidth channels, such as AM and FM radio channels, via the Internet or other relatively slow broadcasting systems.

Regardless, claim 39 is clearly directed to an invention which is nowhere disclosed or even intimated or remotely suggested in any of the prior art of record. The remaining claims which are dependent on claim 39 impose further limitations thereon and are even further distanced from the prior art. As such, it is believed that all of the claims in the application are clearly patentable.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on December 30, 2004

Max Moskowitz
Name of applicant, assignee or
Registered Representative

Signature

December 30, 2004
Date of Signature

Respectfully submitted,


MAX MOSKOWITZ
Registration No.: 30,576
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700